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March 1, 2005

VIA ELECTRONIC FILING AND OVERNIGHT DELIVERY

Mary L. Cottrell, Secretary
MA Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 04-116 – Investigation of Service Quality Guidelines

Dear Ms. Cottrell:

Enclosed for filing, on behalf of Bay State Gas Company ("Bay State"), please find an original and nine (9) copies of the Comments of Bay State to the Order Opening the Investigation, dated December 13, 2004.

Please do not hesitate to telephone me with any questions whatsoever.

Very truly yours,

Patricia M. French

cc: Jody Stiefel, Hearing Officer

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

SERVICE QUALITY GUIDELINES	**)**	**D.T.E. 04-116**

COMMENTS OF
BAY STATE GAS COMPANY TO
ORDER OPENING INVESTIGATION

I. INTRODUCTION

On December 13, 2004, the Department of Telecommunications and Energy ("Department") issued its order opening this review of the service quality plans ("SQ Plans") adopted by gas and electric distribution companies consistent with the Guidelines established in Service Quality Guidelines, D.T.E. 99-84 (2001). *Vote to Open Investigation*, D.T.E. 04-116 (2004) ("Order"). As part of its approval of the SQ Plans, the Department established an initial term for such plans of three (3) years. D.T.E. 99-84 at 42; Order at 1.

In its Order, the Department identified several topics on which it wished to receive comments. Order at 2-4. Pursuant to that Order, Bay State Gas Company ("Bay State") respectfully provides these comments.

II. SUMMARY OF COMMENTS

Bay State recommends that the Department continue the offset method of penalty calculation because it does provide benefits to customers and induces better service. Bay State believes the 95% performance measure for odor call response continues to be the appropriate standard to protect public safety. Bay State believes that the Department's precedent with regard to its interpretation of G.L. c. 164, sec. 1E(a) and (b) is appropriate, consistent with the plain reading of the statute, and should be upheld. Bay State supports the continued use of Company-specific historic benchmarks, rather than standardized or uniform performance benchmarks. Bay State avers that the institution of financial rewards would make the SQ Plan symmetrical and lead to improved customer service initiatives. Bay State objects to the addition of "property damage" as a performance criterion that would be subject to penalties. Bay State does not believe reporting Unaccounted-For Gas would present any administrative burden.

III. COMMENTS

Department Topic (1)

> **Offsets: Please discuss whether the offset provision offers an incentive for an LDC to improve SQ and whether the use of penalty offsets should be continued in the future Guidelines**.

Bay State has not availed itself of the offset permitted by the Guidelines because it has consistently met its service quality standards in each measure. However, the offset component does not discourage improved service quality and, for the reasons that follow, should be contained in future Guidelines.

In D.T.E. 99-84, the parties were concerned that they not be penalized if the deadband calculation[1] proffered at the outset of the SQ Plan was inaccurate. D.T.E. 99-84, at 28. The concept of a deadband reflects a realistic view that historical average performance may acceptably deviate with normal year-to-year variations in utility performance that did not necessarily reflect actual degradation in service. For example, year-to-year variations in performance are recognized to occur because of weather, commodity price volatility, local, regional and national economic cycles, as well as a broad number of other factors beyond the control of the utility's management. Each of these can have a near-term impact on service quality. See, D.T.E. 99-84 at 27. Therefore, the offsets are intended to accept a "normal variation" in performance before penalties (intended to punish service degradation) would be assessed.

Consistent with Department precedent, the Department should consider assessing penalties only where (1) there is a level of certainty that service has actually degraded below historical levels (Interim Order at 43, 47); and (2) the degradation in service is under the control of management. Interim Order at 49; D.T.E. 99-84, at 27, 29, fn.27; D.T.E. 99-84-B at 2, 5. Even now, some companies only have three years of historic data and therefore, only three additional data points available. Bay State does not believe that acceptable variations from normal should be penalized, because normal variations cannot

[1] To establish the deadband, the Department adopted the approach of computing a "standard deviation" using the utility's own, available historical performance data. D.T.E. 99-84, at 3. Standard deviation is a mathematical construct that measures the amount of variation in a data set based on the collective difference between the individual data points and the average (or mean) of the data set. See, D.T.E. 99-84, at 23-26. See, Joint Initial Comments of the Utilities at 25, Appendix B at 9-12, 21-22; Joint Supplemental Comments at 5-7.

be established at this time for all measures due to the lack of historical data. Therefore, so long as the Department intends to use generic guidelines with company-specific benchmarks to coordinate SQ Plans, Bay State believes the Department should continue offsets, even though Bay State has not availed itself of such use. D.T.E. 99-84, at 47 (August 17, 2000) (the "Interim Order").

First, there are instances where the utility may be in a penalty position on a particular measure as a result of one-time operational changes or other singular event that is not outside the utility's control, but is does not result in deterioration of service. For example, if the utility decides to address collection of overdue customer accounts, it may experience a marked increase in customer calls that results in reported annual performance beyond the deadband threshold. The "symmetrical" offset provision gives the utility the incentive to work to increase service on other measures to mitigate the effect it can expect, and does experience, relative to a one-time operational change.

In addition, Bay State uses the SQ Plan and its annual performance statistics to motivate employees and managers; in some instances it underlies the design of incentive compensation. The offset measurement recognizes that when overall customer service is improved, the employee is recognized fairly. In this way, the SQ Plan acts as a management tool and is not developed separately from it (as may be the case were offsets not accepted within it).

There are two amendments that Bay State would propose to the current offset permitted by the Guidelines. First, the incentive underlying the offset would be improved if the Department permitted companies to pro-rate the maximum offset available under a symmetrical system over the potential performance range between the deadband threshold and 100 percent performance. This would reduce the possibility of being exposed only to a penalty with no upside protection.[2]

The Department might also amend the Guidelines for companies with a very tight deadband relating to its historical performance in a particular service quality category. In such situations, minor deviations in performance, positive or negative, can create a penalty or offset situation. Were the Department to establish a minimum deadband of plus/minus 1 percent for each service quality measure subject to penalty and offsets, such action would guard against penalties or earning offsets in years where performance deviated only slightly from the benchmark in a particular category. Fairness is fundamental to this request.

Department Topic (2)

> **Odor Calls: Please discuss whether this benchmark should be strengthened in the future Guidelines and SQ plans and whether multiple calls regarding a single gas leak should be considered as a single odor call response.**

The "95 percent" benchmark for responding to odor calls continues to be the appropriate performance measure because the standard is generally accepted throughout the gas industry and this standard has been determined to ensure safe and reliable

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[2] For example, a utility may have a benchmark for consumer division cases of 0.241 cases, and a deadband of 0.137 cases. This means that the offset should be available if the Company is able to reduce consumer division cases by more than one standard deviation, or by more than 0.137 cases (i.e., the number of consumer division cases is reduced to 0.104 cases), with the maximum offset occurring at two standard deviations from the benchmark. However, two standard deviations from the benchmark would require performance at -0.033 cases, which is impossible. Accordingly, the utility has the potential to be penalized to the maximum of two standard deviations, but does not have the maximum coinciding offset available because the deadband threshold exceeds 100 percent.

delivery of gas to customers in the Commonwealth since its adoption by the Department in D.T.E. 99-84. See, e.g. *Summary of Findings Related to* Service *Quality Benchmarking Efforts* at 7 (filed by joint utilities, Dec. 19, 2002). Appropriate resources are currently employed by utilities to achieve the benchmark for this measure in order to protect public safety and system reliability on a consistent basis. Since no public safety requirement or concern underlies the suggestion that a change is needed or required, no change should be implemented.

With regard to the second part of the Department's question, multiple calls relating a single gas leak are treated as a single odor call response when it is determined that calls are stemming from concerns at the same location. Bay State measures the response time measured from the point that a work order is opened upon the receipt of the first call to the point that a field representative arrives at the site. Additional or subsequent calls do not "restart the clock".

Department Topic (3)

> **Staffing Levels: Please discuss the role of staffing levels in the future Guidelines.**

G.L. c. 164 sec. 1E (a) provides that the Department may establish PBR plans for companies under its jurisdiction and that for companies commencing PBR plans after November 25, 1997 (i.e., the effective date of the Act), the Department must establish service-quality standards. Section 1E (b) provides that the Department's PBR-related service-quality standards must include a labor staffing level "benchmark," established as of November 1, 1997 but that any company operating under a PBR plan that commenced after November 25, 1997 may reduce such staffing levels from the November 1 level, if: (1) those reductions are part of a collective bargaining agreement(s); or (2) the utility can demonstrate that service quality is not adversely affected. Id.

In Bay State's view, it is contrary to the plain reading of Section 1E(b) to assert "no company may reduce its staffing levels below what they were on November 1, 1997." As summarized above, Bay State's plain reading of the statute is, in fact, consistent with the interpretation maintained by the Department for many years. In D.T.E. 99-84, the Department directed each distribution company to submit its SQ Plan with staffing level benchmarks based on labor staffing levels in existence on November 1, 1997, *except as provided by collective bargaining agreements or other statutory provisions*. D.T.E. 99-84-B, *Order on Clarification*, at 12-13 (2001). As part of its reporting mandates, the Department requires each company to report on labor staffing levels on an annual basis.

Staffing levels may be reduced, consistent with the law, if (1) such reduction is accomplished pursuant to a collective bargaining agreement; and (2) if the utility affirmatively demonstrates that reductions have not affected service quality. The Department's current system of monitoring staffing and service-quality levels fulfills this requirement, and therefore, no change should be made to the Guidelines. The Department currently monitors and audits service quality of each jurisdictional distribution company in order to detect and penalize degradations in service (SQ Guidelines at VII); (2) the Department acknowledges and requires annual reporting of each company's benchmark staffing level as compared to that of November 1, 1997 (SQ

Guidelines at IV); and (3) the Department is prepared to undertake readily a formal investigation into service quality decline (SQ Guidelines at VII.A).

The Department's Guidelines support the requirements of Section 1E(a) and (b) by providing for Department action at evidence of deterioration in service quality (which is the purpose of such measurements) rather than a change in staffing level.

Department Topic (4)

> **Standardized Performance Benchmarks: Please comment on whether historic performance continues to be the appropriate method for establishing performance benchmarks.**

Historic performance continues to be the best data to be used in the development of fair and valid and, therefore, appropriate performance benchmarks. The Department's SQ policies are designed to measure service quality, to assess on an annual basis whether each company's service is maintaining, improving or declining in relation to the expected (historical) level of service, and then to deter sub-par performance (as compared to historic performance) through penalties. See, Interim Order at 43-49. It is not an overstatement to assert that the purpose and integrity of the entire system may completely erode without a fair benchmarking method against which performance can be measured.

The question posed by the Department now is not new: the Department has considered in the recent past whether a benchmark other than individual historic performance is viable for use. However, evidence in past examinations concluded that there are significant limitations in terms of the validity and applicability of using national, regional and statewide data to establish uniform or comparative performance benchmarks. Summary of Findings Related to Service Quality Benchmarking Efforts (Navigant Consulting, Dec. 19, 2002), at 13-14, 16-22, 23-24 ("Benchmarking Report"). Inherent differences embedded in data-collection methods, data quality, geography, distribution system design and configuration and weather impacts render invalid and unsupported the use of "standardized" performance benchmarks. Benchmarking Report at 13, 16-23. The Benchmarking Report also concluded that uniform or standardized performance measures are inappropriate because they do not account for differing operational, demographic and geographic challenges. Id. at 16-23.

Bay State is aware of no new information or evidence that contravenes any of the findings deemed to be valid in the Benchmarking Report. Service quality is appropriately maintained and can be bettered as necessary with the use of a company's individual historic performance as its benchmark.

Department Topic (5)

> **SQ Incentives: Please comment as to whether any LDC should be allowed to collect incentives for SQ performance.**

As the Department noted, the Department did permit an electric company to adopt an SQ Plan that included collection of incentives for obtaining certain performance standards. Massachusetts Elec. Co., D.T.E. 01-71B (2002). Bay State believes that implementation of a symmetrical system of financial penalties and rewards as part of the SQ Guidelines is appropriate. Just as an economically rational company will take steps to avoid a penalty by making an appropriate economic investment, a rational company is likely to undertake and risk new improvements designed to enhance service quality if it believes such efforts will enable it to achieve a financial reward or receive financial remuneration for its efforts. Because expanded improvements in service quality are generally induced only opportunistically within current penalty structure, a financial reward may cause companies to more aggressively pursue opportunities for service improvements, especially those that may require initial investment. Bay State believes, therefore, that a symmetrical system of penalties and rewards is appropriate and will benefit customers, and could be considered on a case-by-case basis in the context of future base rate proceeding.

Department Topic (6)

> **Customer Service Guarantees: Please discuss whether the future Guidelines should require (a) payment to customers whether or not the customer requests the credit; and (b) classification as a missed service appointment if the LDC contacts the customer within four hours of the missed appointment and re-schedules the appointment.**

A. Payment of Customer Service Guarantees

The Company currently makes payment of the $25 customer guarantee for missed appointments and planned outages whether or not the customer requests the credit. Accordingly, the Company has no objection to a requirement in future guidelines.

B. Classification of a "Missed Appointment"

In future SQ Guidelines, the Department should not require classification of a "missed" service appointment in instances where the distribution company has contacted the customer and rescheduled the appointment. Appointment scheduling and the delivery of utility services are accomplished using a complex and well orchestrated combination of the Company's customer information system, customer-service representatives, the work order management system, logistics representatives, the mobile data system and field service representatives as well as customer requirements and availability. The utility must have some flexibility to schedule appointments on a "best efforts" basis, and then to reschedule appointments as needed, because of the multiple layers of complexity that must be considered in relation to the utility's scheduling activities. Therefore, if the company has made the effort to contact the customer and reschedule the appointment because of shifting service requirements on a given day, it should not be counted as a "missed" appointment subject to a penalty.

Without this flexibility, the Company is concerned that an unintended negative customer service consequence could occur - companies may schedule fewer appointments in order to maintain the flexibility to address competing service requirements occurring during the workday.

Department Topic (7)

> **Property Damage: Please discuss whether the Property Damage reporting requirement should be made a penalty measure in the future Guidelines.**

The Department's Guidelines require LDCs to report each property-damage incident involving Company-owned facilities that exceeds $5,000 per incident. Bay State agrees that there is merit, relative to public safety and system reliability, for the Department to monitor annually the number and type of property damage incidents. However, this information is inconsistent with the type of objective measures that the

Department subjects to a penalty. Bay State objects to "property damange" being made a penalty measure in future Guidelines.

Service quality plans and measures are "designed to prevent deterioration of the service quality ratepayers are entitled to receive." Interim Order at 43. Deterioration of service based on quantifiable, objective data measuring service quality performance entitles customers to be "made whole by a financial exaction from the utility for its delinquency." Id. By contrast, damage to property may well occur as a result of third-party actions over which Bay State has no control; in these situations, there is no link between Bay State's service-quality performance and the damage caused to its property. Moreover, just because damage of a certain amount occurred to Bay State property does not mean service to any customer was impacted. The connection is simply too tenuous.

A penalty by the Department in this area is unnecessary to ensure a safe and reliable system. Bay State is subject to an extensive web of federal and state regulations that require maintenance standards, safety standards, and reliability standards and permit fines and penalties to be assessed when an LDC fails to maintain and support its natural gas distribution property in proper operating condition. Any additional penalty by the Department for the same activities would be unnecessarily redundant and achieve no further policy goal.

Accordingly, the Department should not include damage to company property as a penalty measure in future Guidelines.

Department Topic (8)

> **Line Loss/Unaccounted-For Gas: Please discuss whether line losses (for LDC's, the equivalent would be unaccounted-for gas) should be made a reporting requirement in the future Guidelines.**

In Bay State's view, reporting Unaccounted-For Gas would be an administratively easy addition to the reporting requirements, because Bay State has been providing this information to the Department under the current Guidelines, as well as to other regulatory authorities in FERC Form 2 and Department of Transportation reports. The tracking and reporting of this information serves a regulatory purpose and places no significant administrative burden on Bay State.

IV. CONCLUSION

Wherefore, Bay State Gas Company appreciates this opportunity to comment.

Respectfully submitted,

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By its attorney,

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Dated: March 1, 2005